

IN THE UNITED STATES DISTRICT COURT FOR THE  
WESTERN DISTRICT OF OKLAHOMA

DARYL ARTHUR WITMER,	)	
	)	
Plaintiff,	)	
	)	
v.	)	Case No. CIV-08-1106-D
	)	
SHANE WYATT, Warden, <i>et al.</i> ,	)	
	)	
Defendants.	)	

**ORDER**

This matter is before the Court for review of the Report and Recommendation [Doc. No. 58], issued June 24, 2009, by United States Magistrate Judge Doyle W. Argo pursuant to 28 U.S.C. § 636(b)(1). Judge Argo addresses Plaintiff's failure to respond to a show cause order regarding lack of service on certain defendants, and recommends that all unserved defendants be dismissed without prejudice pursuant to Fed. R. Civ. P. 4(m). Judge Argo also addresses certain *pro se* filings made by Plaintiff: a "Motion for Supplemental/Summons," which is construed as a motion for leave to file an amended pleading; and an "Objection to Defendants Premature Discovery/Interrogatories," which is in the nature of a motion for a protective order. Judge Argo recommends the Motion be denied and the Objection be overruled.

The record reveals no timely objection to the Report and Recommendation.<sup>1</sup> Therefore, the Court finds that Plaintiff has waived further review of the issues addressed in the Report.

IT IS THEREFORE ORDERED the Report and Recommendation [Doc. No. 58] is ADOPTED in its entirety and the recommended rulings are issued as follows:

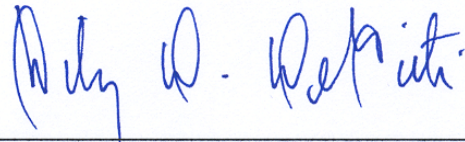
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<sup>1</sup> On July 6, 2009, the defendants who have appeared in the case jointly filed an objection to Plaintiff's motion to amend, urging that it be denied. This "objection" is thus consistent with Judge Argo's recommended ruling.

- Plaintiff's claims against the following parties are dismissed without prejudice pursuant to Fed. R. Civ. P. 4(m): John Doe Sheriff; John Doe/Jane Doe County Commissioners; Nurse Jane Doe; and Doctor John Doe.
- Plaintiff's Motion for Supplemental/Summons [Doc. No. 56] is DENIED; and
- Plaintiff's Objections to Defendants Premature Discovery/Interrogatories [Doc. No. 57] is OVERRULED.

The case remains under referral to Judge Argo pursuant to 28 U.S.C. § 636(b)(1) for further proceedings, as appropriate.

IT IS SO ORDERED this 17<sup>th</sup> day of July, 2009.



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TIMOTHY D. DEGIUSTI  
UNITED STATES DISTRICT JUDGE